

**Emerging and Disadvantaged Business Enterprise
Policy and Procedure Manual**

CITY OF WICHITA

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PROGRAM MISSION STATEMENT

The City of Wichita is committed to ensuring equal opportunity, promoting diversity and enhancing economic opportunities for Emerging and Disadvantaged businesses.

VISION

To enhance opportunities for qualified Emerging and Disadvantaged businesses by increasing their representation and utilization (measured by the amount of dollars spent) in the competitive base of contractors from which the City regularly purchases goods and services and ensure that all suppliers have equal access to the City's purchasing opportunities.

POLICY STATEMENT

The City of Wichita is committed to the development and support of Emerging and Disadvantaged Business Enterprises. It is the policy and commitment of the City of Wichita to provide Emerging and Disadvantaged businesses the maximum opportunity to participate in, compete for and be utilized by the City of Wichita in its procurement of goods and services. To ensure maximum participation and utilization, responsibility for the Emerging and Disadvantaged Businesses Program initiatives will be the shared responsibility of all City departments that select providers to furnish their needed commodities and services. Each such department will be responsible for identifying and achieving departmental goals.

This Policy Statement has the endorsement of the Mayor and City Council and will be signed by the City Manager, posted and circulated to all City Departments, published on the e-Procurement web site, intranet, and made known to Emerging and Disadvantaged businesses, and community organizations, throughout the City.

EMERGING AND DISADVANTAGED BUSINESS PROGRAM

The City of Wichita recognizes and embraces the importance of providing equal opportunities to all vendors. It is the policy of the City of Wichita to provide Emerging and Disadvantaged businesses the maximum opportunity to furnish the City with commodities and services. The intent of the program is to increase the participation and utilization of Emerging and Disadvantaged businesses in the City's purchasing opportunities and to improve upon making Emerging and Disadvantaged businesses a more integral component in the provision of their commodities and services. To facilitate achieving this intent, the City of Wichita will establish annual participation and utilization goals. Department Directors will be required to establish annual goals for utilization of Emerging and Disadvantaged businesses for purchases of goods and services controlled by their respective departments (if any). The participation and utilization goals will be based on the availability of qualified Emerging and Disadvantaged Businesses ready, willing and able to provide the needed goods and services. This does not mean that quotas will be established, nor that any quote or bid must be accepted if it is not the best quote or

bid for the products or services concerned. City departments must, to the greatest extent feasible, meet annual Emerging and Disadvantaged business participation and utilization goals. Consideration will be given to Departments' bona fide "good faith efforts".

CERTIFICATION AND PROGRAM DEFINITIONS

Certification

Federally Funded and KDOT Projects

- Depending on the funding source, some City projects (i.e., federally funded and KDOT projects) will require the utilization of "**certified** Disadvantaged Business Enterprises and Federal guidelines must be used. When contractors are required to utilize Disadvantaged Business subcontractors on federally assisted projects, a Kansas Department of Commerce and KDOT directory of Disadvantaged Business Enterprises may be accessed on the City's e-Procurement web site and by clicking on the State of Kansas link. Hard copies of these directories are also available for review in the Purchasing Office. Any government entity or private firm in Kansas can utilize the Single Source Directory of Disadvantaged Business Enterprises that are listed to fulfill Disadvantaged Business Enterprise goal. To comply with the federal requirements, certification will be accepted from the State of Kansas, or, when applicable regulations specifically refer to use of certifications made by the Small Business Administration, certification will be accepted from the SBA.

City Projects – City Affidavit Process

The City will utilize a self-certification/signed affidavit process for identifying businesses that are defined as Emerging Business Enterprises.

Definitions

It is extremely important that all businesses are clearly defined and that there is an accurate identification of the type of business. The City of Wichita will use affidavits supplied by businesses and the criteria below to determine an "Emerging business enterprise, and the Small Business Administration Act (SBA) definition to determine a "Small business"(within the context of the criteria for an Emerging Business Enterprise).

- Disadvantaged Business Enterprise – A business listed on the State of Kansas' directory of Certified Disadvantaged Business Enterprises. The State definition used to certify a "Disadvantaged Business Enterprise" is a business: meeting the small business size standard, as set by 13 CFR 121 and the minimum requirements as established by U.S. DOT 49 CFR Part 26; at least 51 percent owned by socially and economically

disadvantaged individuals; and, an individual applicant's personal net worth must not exceed \$750,000 (minus ownership interest in the firm and the applicant's equity in his or her primary residence).

For purposes of the foregoing definition, a "socially disadvantaged" person is one who is a U.S. citizen or legal resident, has been subject to discrimination in education or business, has documented such discrimination, and, is:

1. Black American
2. Hispanic American
3. Native American
4. Asian-Pacific American
5. Subcontinent-Asian American
6. A woman, or
7. Other person determined by the State to be disadvantaged

An "economically disadvantaged" person is one who is a member of one or more of the above groups and who has a personal net worth of less than \$750,000 excluding the equity value of one personal residence and the equity value of the ownership in the applicant firm.

- Emerging –a small business enterprise including its affiliates which is independently owned and operated, is not dominant in the field of operation in which it is bidding on City contracts and further qualifies under the following criteria:
 - 1) Manufacturing firms; not employ more than 50 people and gross receipts from the past three years cannot exceed fifteen million dollars;
 - 2) Non-Manufacturing Firms, Distributors and Wholesalers: not employ more than 20 people and gross receipts from the past three years cannot exceed four million dollars
 - 3) Service Firms: not employ more than 50 people nor exceed six million dollars in gross receipts in the past three years.

- **Small Business**

Small business definitions vary from industry to industry. The City of Wichita will use the definition established by the Small Business Administration Act and relevant regulations, which is measured by its employment, business receipts or business assets or employees. For retail, the gross sales averaged over three years cannot exceed \$3 million. For wholesale businesses, they cannot employ more than 100 employees. For manufacturing, they cannot employ more than 500 employees. For general contractors, the limit is an average annual gross receipts over \$16.6 million over the prior three fiscal years. For engineering firms, the limit is \$4 million; and for specialty contractors, the limit is \$7.5 million. In any fiscal year, if the firm and all affiliates have average gross receipts over the firm's previous three fiscal years in excess of 16.6 million, the firm is not eligible to be a Small business.

PROGRAM IMPLEMENTATION AND STAFF

The Supplier Diversity Outreach Position and Contract Compliance staff person shall maintain overall responsibility for the Emerging and Disadvantaged Business program administration. Duties will include but not be limited to the following:

Strategic Plan

- Develop a clear and organized plan to increase the participation and utilization of Emerging and Disadvantaged businesses in the City's purchasing opportunities. Work with City operating departments to establish annual participation and utilization goals.

Outreach

- Expand the registration, participation and utilization of Emerging and Disadvantaged businesses.
- Continue to review membership directories from the Kansas Minority Business Development Council and the State of Kansas Minority and Women-Owned Businesses and Disadvantaged Business Enterprises to ensure these vendors are registered in the City's Purchasing system for goods and services that are required and needed by the City. If they are not registered with the City, mail registration materials to encourage them to register with the City and/or make on-site visits when possible.
- Provide mandatory training for all departments and purchasing staff on newly established Emerging and Disadvantaged Business Program policies and procedures.
- Provide monthly training workshops to vendors on "How to do Business with the City" at various locations throughout the City, i.e., Neighborhood City Halls, District Advisory Meetings, community organizations, etc.
- Provide technical support and networking opportunities.
- Conduct on-site visits to offer personalized training, one-on-one, "How to do business with the City" and provide vendors with an opportunity for feedback and input on how they feel Emerging and Disadvantaged business participation and utilization can be increased.
- Establish a quarterly/annual award recognition program for vendors based on Emerging, and Disadvantaged businesses referring other Emerging and Disadvantaged businesses for registration. A certificate of Recognition will be presented at a "How to do Business" workshop or elsewhere. The number referred and who actually complete the vendor registration process has to be five (5) or more.
- Continue to research other Cities Emerging and Disadvantaged Business Programs to obtain "Best Practices" that can be adapted and included as part of the City's.
- Work with the on-going committee established from the Supplier Diversity Task Team and other representatives to monitor the progress of the City's response to the Supplier Diversity Task Team recommendations as needed.

Tracking and Reporting

- Perform daily (on-going) monitoring of Emerging, Minority, Women-Owned Disadvantaged and Small businesses and provide quarterly reports on the review of actual year to date purchases to management. For purposes of the tracking and reporting functions, “Minority Business Enterprise” (MBE) will mean a business that is at least 51% owned and controlled by an ethnic minority (e.g. African American, Asian American, Hispanic/Latino, Native American, Alaska American, and/or Pacific Islander). A “Woman Owned Business Enterprise” (WOBE) will mean a business that is at least 51% owned or controlled by a woman (women). “Control” is defined in the context meaning exercise of the power to make policy decisions and active involvement in running the day-to-day operations of the business.
- Review and track all bid activity and provide quarterly reports out of the Purchasing system to the City Council.
- Establish and maintain a tracking system of prime contractors’ purchases from Emerging, Minority, Women Owned, Disadvantaged and Small Business Enterprises on all construction projects that go through the formal bid process.
- Determine the availability of qualified Emerging, Minority, Women-Owned, Disadvantaged and Small vendors who are available to provide needed goods and services to the City. The report will identify all registered Emerging, Minority, Women-owned, Disadvantaged and Small vendors by the goods and services they provide. (i.e. a report showing all Emerging, Minority, Women-Owned, Disadvantaged and Small vendors that provide lawn services, janitorial services, construction, etc).
- Develop a process to ensure Emerging and Disadvantaged business utilization and participation from all departments. Responsibility for the program initiatives will be a coordinated/shared effort between all city departments. A process will be developed to measure actual participation and utilization.
- Develop matrix to measure outreach programs such as number of new registrations per month, number of monthly site visits and number of one-on-one consultations provided.
- Encourage prime contractors to use Emerging and Disadvantaged sub-contractors. Establish a formal process to track the utilization of sub-contractors on construction projects within the purchasing system.
- Maintain “vendor certification records” and the monthly hard copies of directories from the Kansas Department of Commerce and Housing and Kansas Department of Transportation which identifies certified DBE’s within the State of Kansas

Increased Advertising

- Increase bid advertising publishing methods. Publish bids in a variety of easily accessible media including such things as bulletin board postings at the neighborhood city halls, cable channel 7, ethnic operated/owned newspapers and broadcast media (depending on the cost), etc. Effective May 2004 legal bids will be advertised in the Wichita Eagle.
- Utilize Kansas Minority Business Development Council membership and networking opportunities, continue to have staff serve on the Board of Directors for KMBDC. Alternative for City Council Action is to research the benefits and cost of membership to

the National Minority Supplier Development Council to determine if the City will apply for membership.

Unbundling of Construction & Large Bid Projects

Where cost-effective and feasible, the City of Wichita will continue to unbundle construction & large contracts to make them accessible to Emerging and Disadvantaged businesses. Construction Project Manager will review each bid project specification prior to the posting & advertisement of the bid to determine the best process that is cost effective and legal.

Bonding Requirements

Continue to work with management and/or the City's Legislative consultant to change State law to allow local governments to establish their own bonding requirement dollar levels which would be commensurate with the risk level assessed on the project. New law on public works bonding minimum requirement of \$100,000 from previous minimum amount of \$40,000 effective July 1, 2004. Excluding engineering projects that require performance and maintenance bonds that are under the \$100,000 minimum.

Good Faith Efforts

Responsive low bidders and City Departments, as appropriate, will be required to provide evidence of good faith efforts to reach applicable goals for Emerging and Disadvantaged business participation. The following is a list of some of the types of actions the City of Wichita will consider as part of such good faith efforts to obtain Emerging and Disadvantaged Business participation.

1. Solicitation of Emerging and Disadvantaged Business participation by inviting such businesses to pre-bid meetings held by the City or the bidder.
2. Documentation of the reasons why Emerging and Disadvantaged Business participation was not achieved for a given project or purchase (e.g., that such businesses did not submit responsive bids/proposals, or that the bids/proposals submitted by such businesses were not the best bids/proposals received).
3. Subcontracting work items normally accomplished by prime contractor staff, if such can be done at equal or lower cost.
4. Utilizing Emerging and Disadvantaged Business organizations, newspapers and broadcast media to recruit interested businesses.

EQUAL EMPLOYMENT OPPORTUNITY AFFIRMATIVE ACTION REQUIREMENTS

All vendors with four (4) or more employees are required, when requested, to provide an Equal Employment Opportunity/Affirmative Action submittal when the cumulative total of purchases

or contracts exceeds \$5,000 within a 12-month fiscal year period. Successful bidders will be contacted when they do not have a current EEO/AA submittal on file with the Purchasing Office.